

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

NICO TRINKHAUS,

Plaintiff,

- against -

PATHPARTNER TECHNOLOGY, INC.

Defendant.

Docket No. 2:20-cv-1989

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Nico Trinkhaus (“Trinkhaus” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Pathpartner Technology, Inc. (“Pathpartner Technology” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Nuremberg, Germany, owned and registered by Trinkhaus, a professional photographer. Accordingly, Trinkhaus seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Trinkhaus is a professional photographer in the business of licensing his photographs for a fee having a usual place of business at 27 Schlieperstrabe, Berlin 13507 Germany.

6. Upon information and belief, Pathpartner Technology is a business corporation with a place of business at #48834 Kato Road, Suite 115A Fremont, California 94538 and does business New York. At all times material hereto, Pathpartner Technology has operated their Twitter page at the URL: [www.Twitter.com/PathPartner](http://www.Twitter.com/PathPartner) (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photograph**

7. Trinkhaus photographed Nuremberg, Germany (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Trinkhaus is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-076-549.

#### **B. Defendant’s Infringing Activities**

10. Pathpartner Technology ran the Photograph on the Website to promote their presents at a trade show. See: <https://twitter.com/pathpartner/status/1097405416747819008>. A screenshot of the Photograph on the Website is attached hereto as Exhibit B.

11. Pathpartner Technology did not license the Photograph from Plaintiff for its Website, nor did Pathpartner Technology have Plaintiff's permission or consent to publish the Photograph on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Pathpartner Technology infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Pathpartner Technology is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Pathpartner Technology have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Pathpartner Technology be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

#### **DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
April 30, 2020

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